IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.MC.No. 3601 of 2007

CC.97/2004 OF CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD

PETITIONER: ACCUSED NO.2

T.C.KHALID, S/O.ABOOBACKER,
THEKKENCHERY HOUSE, PALUVAYI, CHAVAKKAD,
THRISSUR DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: COMPLAINANT & STATE

1. THE ENFORCEMENT OFFICER,
EMPLOYEES PROVIDENT FUND, PALAKKAD.

2. THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

BY GOVERNMENT PLEADER SRI. M.S.BREEZE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/12/2007 ALONG WITH CR.MC. NO. 3604/2007, 3605/2007 AND 3607/2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. Nos. 3601, 3604, 3605 & 3607 OF 2007

Dated this the 1st day of December, 2007

ORDER

The common petitioner is the 2nd accused in four connected prosecutions – all pending before the learned Chief Judicial Magistrate, Palakkad. The prosecutions have been initiated on the basis of private complaints filed by the Enforcement Officer of the Employees' Provident Fund. The petitioner had earlier come before this Court and this Court, by a common order dated 13/12/06, had dismissed the prayer to quash the proceedings, subject to observations that were made there.

2. The cases now stand posted for trial. Witnesses have been summoned. The petitioner is making a further visit to this Court again with these petitions under Sec.482 of the Cr.P.C. with a prayer that the proceedings may be quashed.

3. What is the reason? The learned counsel for the petitioner submits that subsequently the entire liability has been discharged and no further amounts are due to the Provident Fund Department. The subsequent discharge of the liability does not certainly obliterate the culpability alleged against the petitioner. Subsequent payment cannot hence be reckoned as sufficient ground to invoke the powers under Sec.482 of the Cr.P.C. and quash the proceedings. Of course, if the entire liability has been discharged, the petitioner shall be at liberty to advance that contention at the stage when the court considers the sentence if at all he is found guilty.

4. The learned counsel for the petitioner then raised a further contention that the requirement of sanction under Sec.197 of the Cr.P.C. is not satisfied. That contention has not been raised in the earlier Crl.M.Cs. That contention has not been raised before the court below so far. I am of opinion that it is not necessary for this Court at this second tier of litigation to consider the question in greater detail. Suffice it to say that if the petitioner wants to urge such a contention, he shall be at

liberty to urge such contention before the court below.

5. With the above observations, these Crl.M.Cs. are dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge